

Panaji, 5th July, 1984 (Asadha 14, 1906)

SERIES II No. 14

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Department of Personnel and Administrative Reforms

Order

No. 5/30/84-PER

Consequent upon retirement on superannuation of Dr. Jacinto Milagres dos Estibeiro, Director of Health Services, Dr. Anand Helekar, Dy. Director of Health Services, shall officiate as Director of Health Services in addition to his own duties with effect from the afternoon of 30th June, 1984, until further orders.

By order and in the name of the Administrator of Goa, Daman and Diu.

N. P. Gaunekar, Under Secretary (Personnel).
Panaji, 30th June, 1984.

Order

No. 6/1/81-PER (Vol. III)

Read: Order No. 6/1/81-PER dated 13-6-1983.

The term of deputation of Shri V. J. Meneses, Grade II Officer of Goa, Daman and Diu Civil Service, presently on deputation as General Manager, Goa Co-Operatives Marketing Supply Federation Ltd. is hereby extended by one year from 1st July, 1984 to 30th June, 1985.

By order and in the name of the Administrator of Goa, Daman and Diu.

N. P. Gaunekar, Under Secretary (Personnel).
Panaji, 22nd June, 1984.

Order

No. 6/4/82-PER (Vol. II)

The Administrator of Goa, Daman and Diu is pleased to promote on ad-hoc basis Shri R. K. Pillai, Superintendent in the Legislature Department, presently on deputation as Assistant Legal Advisor in the Kadamba Transport Corporation, a substantive incumbent of the post of Superintendent included in the Schedule II of the Goa, Daman and Diu Civil Service to Grade II post of the same service in the pay scale of Rs. 650-1200 w.e.f. 24-5-1984.

2. The Administrator is further pleased to continue Shri Pillai on deputation as Asst. Legal Advisor in the Kadamba Transport Corporation.

3. The above promotion shall not bestow on Shri Pillai any claim for regular appointment and the service rendered on ad-hoc basis in the grade will not count for the purpose of seniority in that grade and for eligibility for promotion to the next higher grade.

By order and in the name of the Administrator of Goa, Daman and Diu.

N. P. Gaunekar, Under Secretary (Personnel).
Panaji, 29th June, 1984.

Order

No. 6/37/77-PER

The Administrator of Goa, Daman and Diu is pleased to order transfer of the following officers holding Grade II posts of Goa, Daman and Diu Civil Service as shown below:

Sr. No.	Name of the officer and present designation	Posted on transfer as
1	2	3
1.	Shri V. S. Sawant, Addl. Dy. Collector.	Under Secretary, W. E. T. Department, Secretariat, Panaji vice Shri T. S. Khandeparkar, transferred.
2.	Shri T. S. Khandeparkar, Under Secretary, W. E. T. Department, Secretariat, Panaji at present on leave.	Addl. Dy. Collector vice Shri V. S. Sawant transferred.

2. Shri V. S. Sawant, Addl. Dy. Collector, shall hand over the charge of the post to Shri J. B. Fernandes, Addl. Dy. Collector, and take over his new assignment immediately, thereby relieving Shri S. M. Naik, Under Secretary (F & A), of the additional charge of the post of Under Secretary (WET).

3. Shri T. S. Khandeparkar, Under Secretary (WET) shall join his new post on expiry of 105 days leave (from 1/6/84 to 13/9/84) granted to him vide order of even No. dated 25/5/84.

By order and in the name of the Administrator of Goa, Daman and Diu.

N. P. Gaunekar, Under Secretary (Personnel).
Panaji, 26th June, 1984.

Directorate of Vigilance

Memorandum

No. 14-78-VIG(P.F.)

Sanction of the Chief Vigilance Officer is hereby conveyed for the appointment of the following Officers as Vigilance Officers for the Departments shown against their names. This memorandum supersedes the earlier memoranda appointing Vigilance Officer in the Departments indicated below:—

- Shri George Kuruvilla, Asst. Commissioner of Excise. Office of the Commissioner of Excise.
- Shri S. K. Kain, I.P.S., Superintendent of Police (CID). Police Department.

S. D. Sadhale, Dy. Director (Vigilance).

Panaji, 27th June, 1984.

Secretariat Administration and Coordination Division

Notification

No. 45/1/84-SAC

The following order from the President of India appointing Air Chief Marshal (Retd.) I. H. Latif, Governor of Maharashtra State, as Administrator of the Union Territory of Goa, Daman and Diu as also the Administrator of the Union Territory of Dadra and Nagar Haveli, conveyed by the Secretary to the President of India vide wireless message No. F.37/CA(1)/84 dated 2-7-1984, is hereby published for general information.

"By virtue of power vested in me by clause (2) of Article 239 of Constitution of India, I, Zail Singh, President of India, hereby appoint Air Chief Marshal Idrish Hasan Latif (Retd.) Governor of Maharashtra as Administrator of U. T. of Goa, Daman and Diu as also Administrator of U. T. of Dadra and Nagar Haveli in addition to his duties as Governor of Maharashtra with effect from date Shri K. T. Satarawala demits office of Lt. Governor of Goa, Daman and Diu and until his successor is appointed."

Sd/-

(ZAIL SINGH)
President of India."

G. H. Mascarenhas, Under Secretary (S. A. & C.).

Panaji, 4th July, 1984.

Planning Department

Order

No. 4-2-81/PLG

Read: i) Order No. 4-2-81/PLG dated 4-1-1984.

ii) Order No. ADM/PS/B/MRK/sO/312/84 dated 28-4-1984.

Consequent upon the repatriation of Shri M. R. Kulkarni Statistical Officer of the Common Statistical cadre of the Directorate of Planning, Statistics and Evaluation from the Administration of Dadra and Nagar Haveli, Silvassa after being on deputation from 4-1-1984 to 30-4-1984 he is posted in the Directorate of Planning, Statistics and Evaluation Panaji as Statistical Officer with effect from 14-5-1984.

By order and in the name of the Administrator of Goa, Daman and Diu,

A. V. Pimenta, Under Secretary (Planning).

Panaji, 21st June, 1984.

Works, Education and Tourism Department

Order

No. 8/25/84/WET

Government is pleased to constitute a Committee with immediate effect under the Chairmanship of the Hon. Minister for Education and Sports of Goa, Daman and Diu and consisting of the following members in order to select a site for the development of standard Football stadium in this territory.

1. Hon. Minister for Education & Sports of Goa, Daman & Diu — Chairman.
2. Secretary (Education) — Member.
3. President/Secretary Goa Football Association — Member.
4. President/Secretary Goa Cricket Association — Member.
5. Chief Engineer, P. W. D., Panaji — Member.

6. Shri C. G. Gomes, Senior Architect, P. W. D., Panaji — Member.
7. Director of Sports and Cultural Affairs, Panaji — Member Secretary.

The non-official members will be entitled to draw their TA/DA for attending the meeting/site inspection on par with Grade I Officer.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. M. Naik, Under Secretary to the Government of Goa, Daman and Diu.

Panaji, 25th June, 1984.

Directorate of Education

Notification

No. 52/5/82-Adm. III/N. F. T. W./967

In supersession of this office Notification No. DE/Acad. II/N. F. T. W./39/75/7144 dated 3-4-80 and subsequent notification No. DE/Acad. II/NFTW/39/75/1215 dated 29-9-1981, Lt. Governor who is the Chairman of the Working Committee of the National Foundation for Teachers' Welfare for this Union Territory is pleased to reconstitute the said Committee of the Foundation for a period of 2 years. The reconstituted Committee shall comprise of following: —

1. Lt. Governor, Goa, Daman & Diu — Chairman.
2. Minister for Education, Goa, Daman & Diu — Member.
3. Finance Secretary, Govt. of Goa, Daman & Diu — Member.
4. Dr. G. V. Kamat Helekar, Director of Post Graduate Centre, Panaji — Member.
5. Shri G. R. Sardesai, Principal, Progress High School, Panaji — Member.
6. Fr. Nicolau Pereira, Principal, St. Xavier College, Mapusa — Member.
7. Fr. Honorato Monteiro, Principal, St. Joseph High School, Arpora Bardez — Member.
8. Shri M. S. Kamat, Principal, M. E. S. College, Vasco — Member.
9. Director of Education — Secretary-Treasurer.

By order and in the name of the Administrator of Goa, Daman and Diu.

L. Khiumgte, Director of Education and Addl. Secretary to the Government of Goa, Daman Ex-Officio.

Panaji, 26th June, 1984.

Local Administration and Welfare Department

Order

No. 10-51-82-COOP-LAWD

On the recommendations of the Departmental Promotion Committee Shri V. S. Hardikar, Special Auditor from the Office of the Registrar of Co-operative Societies, Panaji is hereby promoted on officiating basis as Assistant Registrar of Cooperative Societies, Group "B" Gazetted in the pay scale of Rs. 650-30-740-35-810-EB-35-880-40-1000-EB-40-1200 with immediate effect and posted to the Central Zone, Panaji, vice Shri V. G. Patil, transferred.

By order and in the name of the Administrator of Goa, Daman and Diu.

A. V. Pimenta, Under Secretary (LAWD).

Panaji, 23rd June, 1984.

Order

No. 3-39-73-LSG(GEN)(P.F.)

Shri A. Barbosa, B. D. O. Quepem is appointed as Administrator of Quepem Municipal Council, in addition to his own duties, vice Shri J. J. Barreto, transferred.

Shri R. J. Kamat, Mamlatdar of Sanguem is appointed as Administrator of Sanguem Municipal Council, in addition to his own duties vice Shri G. G. Kambli, promoted.

The above appointments shall come into force with immediate effect.

By order and in the name of the Administrator of Goa, Daman and Diu.

A. V. Pimenta, Under Secretary (LAWD).

Panaji, 26th June, 1984.

Order

No. 6-1-75-LSG(18) Vol. I

Smt. Sudha Amonkar, Principal, New Goa High School, Mapusa, Bardez is hereby nominated as a non-official member of the Children's Board constituted under Government order No. 6-1-75-LSG(18) dated 21-6-75 for a period of two years with immediate effect.

By order and in the name of the Administrator of Goa, Daman and Diu.

A. V. Pimenta, Under Secretary (LAWD).

Panaji, 16th June, 1984.

Revenue Department

Notification

No. 22/113/83-RD

Whereas by Government Notification No. 22/113/83-RD dated 16-12-83 published on page 461-462 of Series II, No. 39 of the Official Gazette dated 29-12-83 it was notified under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act) that the land specified in the schedule appended to the said Notification (hereinafter referred to as the said land) was likely to be needed for public purpose viz. for the work of Desilting and Development of Ambarkhan Tank at V. P. Querim in Ponda Taluka.

And whereas the Government is of the opinion that its acquisition is urgently necessary, the provisions of sub-section (1) and sub-section (4) of Section 17 of the said Act are

made applicable, and that the Collector appointed under paragraph 2 below, shall at any time, on expiry of 15 days from the publication of notice relating to the said land under sub-section (1) of Section 9 of the said Act, take possession of the said land.

Now therefore the Government is pleased to declare under the provision of Section 6 of the said Act that the said land is required for the public purpose specified above.

2. The Government is also pleased to appoint under clause (c) of Section 3 of the said Act, the Special Land Acquisition Officer (North) Irrigation Department Duler-Mapusa to perform the functions of the Collector for all proceedings hereinafter to be taken in respect of the said land and to direct him under Section 7 of the said Act to take order of the acquisition of the said land.

3. A plan of the said land can be inspected at the office of the Special Land Acquisition Officer (North) Irrigation Department Duler-Mapusa-Goa, till the award is made under Section 11.

SCHEDULE

(Description of the said land)

Sr. No.	Taluka	Village/Ward	Survey No.	Sub. Div. No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
	Ponda	Querim	58	1	O: Vijayadurga Devalaya Committee Ambarkhan, Querim. T: Shri Pundalik Dhaku Naik.	775.00
			58	2 (part)	O: Vijayadurga Devalaya Committee Ambarkhan, Querim. T: Shri Laximan Rama Kerkar Ambarkhan, Querim.	2500.00
			67	1 (part)	O: 1. Shri Laximan Vinayak Upadhye. 2. Shri Dattatroy Keshav Upadhye. T: Shri Pundalik Dhaku Naik.	510.00
			67	2 (part)	O: Shri Narayan Rambhat Materbag. 2. Shri Dhondu Bhagwant S. Kerkar. 3. Shri Bhalchandra Laximan Dessai. 4. Shri Baban Mahadev Dessai. 5. Shri Narayan Vaidya. 6. Shri Mahadev Dinkar Umariye. 7. Shri Baban Dinkar Umariye. 8. Shri Balkrishna Venkatesh Dessai. T: 1. Shri Pundalik Dhaku Naik. 2. Shri Fondu Naik. 3. Shri Ram Bablo Saterkar.	22100.00
			67	3	O: 1. Shri Purshottam Balkrishna Upadhye.	2475.00
			65	1 (part)	O: Shri Laximikant Govind Upadhye.	250.00
Total						28,610.00

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 28th June, 1984.

Notification

No. 22/135/84-RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for Rehabilitation of the affected persons due to the proposed Pedda Road.

Therefore the Government is pleased to notify under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contracts for the disposal of the said land by sale, mortgage, assignment, exchange or otherwise, or any outlay commenced or improvements made thereon without the sanction of the Collector appointed in paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of Section 24 of the said Act, be disregarded by him while assessing com-

pensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette, in due course. If the acquisition is abandoned wholly or in part, the fact will be notified.

4. The Government is further pleased to appoint under clause (c) of Section 3 of the said Act the Addl. Deputy Collector South-I to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government is also pleased to authorise under sub-section (2) of Section (4) of the said Act, the following officers to do the acts, specified therein in respect of the said land.

1. The Collector of Goa, Panaji.
2. The Additional Dy. Collector, South-I, Margao.
3. The Chief Officer, Margao Municipal Council, Margao.
4. The Director of Land Survey, Panaji.

6. A rough plan of the said land is available for inspection in the office of the Additional Dy. Collector South-I for a period of 30 days from the date of publication of this Notification in the Official Gazette.

SCHEDULE

(Description of the said land)

Sr. No.	Taluka	Village/Ward	P. T. Sheet No.	Chalta No.	Name of the person believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
	Salcete	Margao	237	32 part	Atmaram Poi Panandikar. North: Ch. No. 32, P. T. Sheet No. 237. South: Nala, Ch. No. 236 & Nalla P.T.S. 237, East: Ch. No. 128, 127 P.T.S. No. 237. West: Ch. No. 43 P.T.S. No. 236.	1375.00
Total						1375.00

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

M. S. Sail, Under Secretary (Revenue).

Panaji, 18th June, 1984.

Notification

No. 22/120/83-RD

Whereas by Government Notification No. 22/120/83-RD dated 13-10-83 published on page 314 of Series II, No. 30 of the Official Gazette, dated 27-10-83 it was notified under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the said Act") that the land, specified in the schedule appended to the said Notification (hereinafter referred to as the "said land") was likely to be needed for the public purpose viz. Proposed Bus Stand at Dabal V. P. Kirlapal.

And Whereas the appropriate Government (hereinafter referred to as "the Government") is satisfied after considering the report made under sub-section (2) of Section 5A of

the said Act, that the said land specified in the schedule hereto is needed to be acquired for the public purpose specified above.

Now, Therefore, the Government is pleased to declare under the provisions of Section 6 of the said Act that the said land is required for the public purpose specified above.

2. The Government is also pleased to appoint under clause (c) of Section 3 of the said Act, the Additional Dy. Collector (2-South) to perform the functions of a Collector for all proceedings hereinafter to be taken in respect of the said land, and to direct him under Section 7 of the said Act to take order for the acquisition of the said land.

3. A plan of the said land can be inspected at the office of the said Additional Dy. Collector (2-South) till the award is made under Section 11.

SCHEDULE

(Description of the said land)

Sr. No.	Taluka	Village/Ward	Survey No.	Sub. Div. No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
	Sanguem	Codli	171	4(part)	1. Ramchandra Rajendra Odiar. 2. Sadhashiv Rajendra Odiar. 3. Smt. Kamladevi Swati. North: Road. South: S. No. 171/4. East: S. No. 171/4. West: Nala, S. No. 171/4.	340.00
Total						340.00

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 23rd June, 1984.

Notification

No. 22/102/81-RD

Whereas by Government Notification No. 22/102/81-RD dated 29-7-1983 published on page 186 to 187 of Series II, No. 18, of the Official Gazette dated 4-8-1983 it was notified under Section 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the land specified in the schedule appended to the said notification (hereinafter referred to as the "said land") was needed for public purpose viz. Playground for Our Lady of Fatima Convent High School at Moti Daman, Daman.

And whereas in the opinion of the appropriate Government (hereinafter referred to as the "Government") the said land is not required for the aforesaid purpose.

Now, therefore, the Government is pleased to declare under Sub-section (1) of Section 48 of the said Act that it has withdrawn from acquisition of the said land for the

aforesaid public purpose and that the aforesaid Government notification shall be deemed to be cancelled so far as it relates to the said land. The persons interested in the said land, may lodge to the Dy. Collector of Daman, Daman within a period of thirty days from the date of this Notification claims under Sub-section (2) of Section 48 of the said Act, for the damage suffered by them in consequence of the notice or of any proceedings thereunder and for costs reasonably incurred by them in prosecution of the proceedings under the said Act relating to the said land.

A plan of the land, shall be available for inspection in the Office of Dy. Collector of Daman, Daman for a period of thirty days from the date of this Notification.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 28th June, 1984.

Corrigendum

No. 22/104/81-RD

Read: — Notification No. 22/104/81-RD dated 5-4-1984 published in the Official Gazette No. 5, Sr. II dated 3-5-1984 pgs. 94-95.

In column No. 7 of the schedule of the above Notification the area "900.00 square metres" shown against the well should be read as "9.00 square metres".

Similarly the following may be added to the said schedule.

Sr. No.	Taluka	Village	P. T. Sheet No.	Chalta No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
	Salcete	Margao	119	12 part	1) Joaquim M. Faleiro. 2) Caetano L. Faleiro.	62
			— do —	13 part	1) Joaquim Manuel Faleiro. 2) Caetano L. Faleiro. T: Pedro Pinto.	375
			— do —	18	1) Joaquim M. Faleiro. 2) Caetano L. Faleiro. T: Rosario Fernandes.	61

The total area remains the same i. e. 12,250.00 square metres.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 23rd June, 1984.

Public Health Department

Corrigendum

No. 6/3/84-PHD

In the Government Order No. 6/3/84-PHD dated 30-5-1984:

- (1) in Sr. No. 10, for the name "Dr. Vishwanath Hede" read "Dr. Visvonatha R. S. Edo";
- (2) in Sr. No. 34 the word "(Epidemiologist)" in column 2 shall be deleted;
- (3) in Sr. No. 35 the word "(Epidemiologist)" in column 3 shall be deleted.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. V. Bhadri, Under Secretary (Health).

Panaji, 29th June, 1984.

Industries and Labour Department

Order

No. 28/18/84-ILD

Whereas the Lieutenant Governor of Goa, Daman and Diu is of the opinion that an industrial dispute exists between the management of M/s. Techno Engineering Corporation, Jose Inacio Loyala Road, Margao, Goa and their workmen represented by the Trade and Commercial Workers' Union, Panaji-Goa, in respect of the demands specified in the Schedule hereunder written (hereinafter referred to as the "said dispute");

And whereas the Lieutenant Governor of Goa, Daman and Diu considers it expedient to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Lieutenant Governor of Goa, Daman and Diu hereby refers the said

dispute for adjudication to the Industrial Tribunal of Goa, Daman and Diu, Panaji, constituted under section 7A of the said Act.

SCHEDULE

"Whether the following demands made the workmen of M/s. Techno Engineering Corporation, Jose Inacio Loyala Road, Margao, represented by the Goa Trade and Commercial Workers Union, Panaji-Goa, are justified?

Demand No. I: Enhancement of scale of pay with adequate and substantial yearly increment, depending upon grade designation of each workman—

Grade Designation	Payscale
I Helper.	275-15-350-20-450 (10 yrs).
II Asst. Electrician, Welder, Fitter.	325-25-450-30-600 (10 yrs).
III Electrician, Wireman, Rigger, Fabricator.	375-35-550-40-950 (15 yrs).

Demand No. II: Fitment Take the existing monthly salary paid to each workman and ADD/FLAT/ a Rise on the following basis:

- Grade I: ADD Rs. 50/-.
- Grade II: ADD Rs. 75/-.
- Grade III: ADD Rs. 100/-.

Thereafter fit each workman in the respective scale-pay. Thereafter, give the following SENIORITY INCREMENTS.

Demand No. III: Seniority Increments:

Should be given on the following basis:

- i. Those who have completed two years of services, one seniority increment.
- ii. Those who have completed four years of service, two seniority increments.
- iii. Those who have completed six years and, above, three seniority increments.

Demand No. IV: Fixed Dearness Allowance:

Each workman should be paid a Fixed Dearness Allowance @ 40% on the New Basic Pay.

Demand No. V: House Rent Allowance: Should be paid @ 10% on the New Basic Pay.

Demand No. VI: Travelling Allowance:

Each worker should be paid a travelling allowance of Rs. 3/- per day.

Demand No. VII: Bhatta: Each workman should be paid a Bhatta of Rs. 10/- per day whenever they are assigned on out-door duty.

Demand No. X: Advances: An advance-pay of not more than 50% of the gross salary be disbursed to a workman in the event of contingencies.

Demand No. XII: The following shall be the Leave Facilities:

- i. Privilege Leave: @One Day for every 15 days of service ...
- ii. Casual Leave: of 7 days per year ...
- iii. Sick Leave: of 9 days per year ...
- iv. Holidays: 2 holidays per year.

And if so, to what relief the workmen are entitled to under each head of the demand and from which date?"

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

S. V. Bhadri, Under Secretary (Industries and Labour).

Panaji, 7th June, 1984.

Order

No. 28/2/84-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the

provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Blekar, Under Secretary (Industries and Labour).

Panaji, 5th June, 1984.

IN THE INDUSTRIAL TRIBUNAL GOA, DAMAN AND DIU, PANAJI GOA

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Reference No.: IT/68/78

1. Shri Francis Napoleon Soares. —Workman/Party I
V/s.

1. M/s. P. G. Virginkar & Co. —Employer/Party II
Employer/Party II represented by Shri B. G. Kamat, Labour Advisor.

Panaji, Dated: 12-4-1984

AWARD

This is a reference made to this Tribunal by the Govt. of Goa, Daman & Diu, by its Order No. IRM/CON(98)/78/IT-41/78/ dated 16th December 1978. The schedule annexed to the Order of Reference reads as follows:

"Whether the action of the Management of M/s. P. G. Virginkar & Co. Automobile Dealers, Post Box No. 38, Margao, in terminating the services of Shri Francis Napoleon Soares, Asst. Mechanic, w.e.f. 15-4-1978 is legal and justified?

If the answer be in the negative, to what relief, if any, is the aforementioned workman entitled to?"

2. In his statement of claim, the workman has claimed:

- i) His salary for the days worked during the month of April, 1978;
- ii) As his services were terminated without any notice, he feels that he is still in the employment and, hence, entitled to the salary for the months which have already lapsed from the date of the termination of his services;
- iii) He, being fit and worthy and having worked for over 14 months, is to be considered as permanent employee and so notice was required for the termination of his services, which notice was not issued and, hence, he is entitled to reinstatement with all benefits and amenities as are provided by the Company's existing service conditions.

3. The employer, in its written statement, has raised the preliminary objection that no industrial dispute came into existence in accordance with law as Shri F. Soares was not a workman within the meaning of Section 2(s) of the I.D.A., 1947, in short the Act and so no Master/Servant relationship was created before the alleged termination of his services. It is contended that the workman was offered employment with the employer company subject to the fulfilment of the terms and conditions of service dated 18-1-1977 entered into between the parties, which terms and conditions he could not fulfil. Before that, there was a mere contract to employ him and such contract does not turn him into a workman within the meaning of Section 2(s) of the Act. The reference, therefore, is bad in law. In any event, he was a probationer in semi-skilled category during the entire period of his training till 14-4-1978; even after initial training of 6 months, he was found unsuitable for regular employment and, therefore, his services were terminated from 15-4-1978. On merits, it is denied that any salary is due to him. However, he is at liberty to collect from the H. O. at Margao any unclaimed stipend. No notice was required to be served on the workman for the termination of his services.

4. In his rejoinder, the workman's contention is that, in case the training period was extended, one extension letter had to be sent to him, which was never done. After 6 months, his wages were increased to Rs. 5.50 per day, which would prove that he was quite fit and worthy and did the job up to the mark. His services, therefore, could not be terminated without at least giving him one month's notice, as he had put in almost 13 months services.

5. Following issues were framed by the Tribunal:

- "1. Does the Employers/Party II prove that the workman/party I was not a "Workman/within the meaning of S. 2(s) of the Industrial Disputes Act, 1947 (herein after called "The Act")".
2. Do the Employers/Party II prove that the termination of services of the workman/party I was legal and justified?
3. Does the Workman/Party I prove that he was quite competent to work and do his job up to the mark?
4. Does the Workman/Party I prove what are the reliefs to which he is entitled to?"

6. The workman remained absent throughout the hearing and did not lead any evidence. On preliminary issue No. 1, the employer led the evidence of Shri Mohandas Virginkar, Partner of the firm, after which this issue was disposed off by my order dated 24-4-1983, wherein it was held that Shri Francis Soares was a workman within the meaning of Section 2(s) of the Act. Thereafter, the case was fixed for the employer's evidence on merits. At this stage, the employer's rep. applied to the Court to amend the said issue so as to put the burden of its proof on the workman. After hearing the arguments of the Ld. Rep. of the employer, order was passed on 2-9-1983 and the application moved by the employer was dismissed.

7. On the merits, the employer led the evidence of Shri Mohandas Virginkar, Partner of the firm, and Shri Valup Kurade, the then Works Manager.

8. Exh. E-2 produced by the employer is the letter of appointment of the workman dated 18-1-1977. From this letter it is clear that the workman was appointed on the terms and conditions mentioned therein. Such terms and conditions are as follows:

- "1. That you should undergo a Practical Training in our Workshop for a period of maximum six months with a stipend of Rs. 75/- per month.
2. Upon our finding you fit, you shall be sent to our Principals for training for a period of maximum two months.
3. That you shall sign a bond with us for a period of three years before going for training with the factory.
4. That after training with the factory you will be absorbed in our Workshop on a scale consolidated Rs. 250/- to be revised after three months on regular scale with all benefits and amenities as are provided by us under the existing service conditions."

This letter also bears the endorsement of the workman, acknowledging the receipt of the original.

In his statement before the Tribunal, Shri Mohandas Virginkar has stated that after being appointed, the workman started his practical training at their workshop at Margao, but was irregular and did not take much interest. His work in the workshop was supervised by the Works Manager, Mr. Kurade. The workman was asked to go after about a period of 14 months; he was paid all his stipends except perhaps for the last month. In his subsequent statement, he has stated that the services of the workman were terminated from 15-4-1978, because he was irregular and did not go for training with Bajaj Tempo and Premier Automobiles. On 14th April, in the morning, he told the workman about the termination and that he should come to the office to collect his dues in the evening between 4.00 and 5.00 p.m. The workman came in the evening and Mr. Kurtarkar, one of the witnesses, which the workman did not accept because he wanted a letter of termination, in writing, terminating his services. The workman said that he would come on the next day, but he did not turn up. Notice of termination was not given to the workman because he was not a regular employee. To a question of the Court, he has replied that the workman did not sign any muster roll of the staff, but there was a separate register to record his attendance, maintained in the factory. Mr. Kurade, the workshop Manager, reported to the witness orally that the workman was irregular in attending the factory.

9. The other witness, Mr. Kurade, has stated that he recommended to Mr. Mohandas Virginkar, the termination of the services of the workman, because the later was irregular in his attendance and was not interested in his work. To a question from the Court, he stated that the workman attended the workshop for about 1 year and 3 months but all

this time he was irregular. His attendance was recorded in separate sheets which have not been maintained. This is all the evidence on record in this case.

10. From the letter of appointment, Exh E-2, it is clear that the workman was admitted as a probationer and would be absorbed in the post after undergoing practical training in the workshop for a maximum period of 6 months and, if found fit, after undergoing a further training with the principals of the employer for a maximum period of 2 months. It happened, however, that the services of the workman were terminated w.e.f. 15-4-1978, i.e. after about 15 months of service, as the letter of appointment is dated 18-1-1977. There is nothing to show that, after the completion of the training period of 6 months or 8 months, the workman was confirmed. Hence, he is deemed to be a probationer during all this period of about 15 months. In the case of Management of The Express Newspapers Pvt. Ltd., Madurai and Presiding Officer of the Labour Court, Madurai and another, reported in Indian Factories and Labour Reports, Vol. 8, 1964 page 289, the Supreme Court has observed that, if no action is taken by the employer at the end of the probation period either confirming the employee or terminating his services, the employee continues to be in service as a probationer. It is well settled that, during the probation period, the employer can terminate the services of the employee if they are found unsatisfactory, and that the employer is the sole judge of such situation. Only when the action of the employer is challenged in Court, the court has to see whether the action of the employer is mala fide or amounts to victimization or is an unfair labour practice or so capricious or unreasonable, as would lead to the inference that it has been taken for ulterior motives and is not in bonafide exercise arising out of the contract as it has been held by the Supreme Court in the case of Management Brooke Bond India, Pvt. Ltd., V/s. Y. K. Gautam, reported in AIR 1973 page 2634.

11. The ground for terminating the services of the workman, according to the employer, is that the workman was very irregular in his attendance during the training period and was not interested in the work. This was stated by the employer Mohandas Virginkar and also by the Workshop Manager, Kurade, who was supervising the work of the workman. This oral statement made by both the witnesses in Open Court has gone unchallenged for want of cross examination and, therefore, we have to assume it as correct and so, on this ground, the employer would be justified in terminating the services of the workman.

12. The only point now to be considered is whether 30 days notice was required to be given by the employer to the workman before terminating his services, as contended by the workman. The termination in question amounts, undoubtedly, to retrenchment as per the definition of retrenchment given in Section 2(00) of the Act. Section 25F of the Act provides inter-alia: "No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- a) The workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;

Provided that no such notice shall be necessary if the retrenchment is under the agreement which specifies a date for the termination of service;

- b) The workman has been paid at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 26 (for every completed year of continuous service) or any part thereof in excess of six months."

13. In the instant case, the workman was putting in about 15 months service and, therefore, the condition precedent laid down in Section 25F had to be complied with by the employer. The employer, admittedly, did not give to the workman any notice in writing, as required by law, the reason being that such notice was not required, according to the employer, because the workman was not their regular workman. It is to be noted, however, that Section 25F of the Act does not make any distinction between regular employees or otherwise. Whenever a workman puts in continuous service for not less than one year, the above conditions are to be complied with.

14. Coming now to the compensation and notice pay: The allegation of the employer Shri Mohandas Virginkar in his statement dated 5-12-1983 that, in the morning of 14th April, the workman was told about the termination and that he

should come to the Office to collect his dues and that the workman came in the evening between 4 to 5 p. m. and the Officer of the Company, Mr. Kurtarkar, gave to the workman in his, Virginkar's, presence, the amount which included one month's notice pay, 15 days compensation and pay till 14th April, which the workman refused to accept, is difficult to believe and seems to be an after thought. It is to be noted that in his previous statement dated 12-7-1982, Shri Virginkar had stated that the workman was paid his stipend during the period he attended the workshop except, *perhaps* the last salary for the last month. However, in his subsequent statement he affirmed categorically that the amount was tendered to the workman in his presence and this amount, which was refused by the workman, included notice pay, 15 days compensation and pay till 14th April.

14. The conditions laid down under Section 25F of the Act are conditions precedent to a valid retrenchment. The Supreme Court in Hospital Mazdoor Sabha case, reported in 1960 I LLJ page 251, has laid down the principle that the requirements of Section 25F, are of mandatory nature and failure to comply with them makes the order of retrenchment invalid and inoperative in law. In the instant case, the employer, admittedly, did not serve written notice of termination on the workman, which fact by itself would be sufficient to invalidate the retrenchment order. Besides, the employer has not convincingly proved that notice pay and compensation was offered to the workman at the time of his retrenchment, which fact would further invalidate the said order.

15. In the premises above, I pass the following order:

ORDER

The retrenchment of the workman by the employer is invalid and inoperative in law since the conditions precedent laid down in Section 25F of the Act were not complied with. The workman, therefore, is to be deemed as in service till the employer passes a fresh order retrenching him after complying with all legal formalities. Costs of Rs. 100/- to be paid by the employer to the workman.

Dr. Renato de Noronha
Presiding Officer
Industrial Tribunal

Order

No. 28/11/84-ILD

Whereas the Management of M/s. Carter Wallace Ltd., Curti, Ponda-Goa and their workman represented by the All Goa General Employees Union (CITU), Vasco-da-Gama, Goa, have jointly applied to the Government of Goa, Daman and Diu for a reference of the dispute in respect of the matter set forth in the Schedule, hereunder written (hereinafter referred to as the "said dispute"), to the Industrial Tribunal, Panaji;

And whereas the Lieutenant Governor of Goa, Daman and Diu is satisfied that the All Goa General Employees Union (CITU), Vasco-da-Gama, Goa, represents the majority of the workmen employed in M/s. Carter Wallace Ltd., Curti-Ponda, Goa.

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Lieutenant Governor of Goa, Daman and Diu hereby refers the said dispute for adjudication to the Industrial Tribunal, Goa, Daman and Diu, at Panaji-Goa constituted under 7A of the said Act.

SCHEDULE

"Whether the action of the management of M/s. Carter Wallace Ltd., Curti, Ponda-Goa, in terminating the services of Shri Narendra L. Naik, Helper with effect from the 29th February, 1984 is legal and justified.

If not, to what relief the workman is entitled to?"

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 3rd July, 1984.

Finance Department (Revenue and Control)

Notification

No. Fin(Rev)/2-36/Appts/14/73(1)

In exercise of the powers conferred by sub-section (1) of section 3 of the Goa, Daman and Diu Sales Tax Act, 1964 (4 of 1964), the Government of Goa, Daman and Diu hereby appoints Smt. Naini Jeyaseelan, as Commissioner of Sales Tax for carrying out the purposes of the said Act with effect from 16-5-1984 until further orders.

By order and in the name of the Administrator of Goa, Daman and Diu.

K. M. Nambiar, Under Secretary (Finance Exp.).

Panaji, 22nd June, 1984.

Notification

No. Fin(Rev)/2-36/Appts/14/73

In exercise of the powers conferred by sub-section (1) of section 3 of the Goa, Daman and Diu Excise Duty Act, 1964 (5 of 1964), the Government of Goa, Daman and Diu hereby appoints Smt. Naini Jeyaseelan, as Commissioner of Excise for carrying out the purposes of the said Act with effect from 16-5-84 until further orders.

By order and in the name of the Administrator of Goa, Daman and Diu.

K. M. Nambiar, Under Secretary (Finance Exp.).

Panaji, 22nd June, 1984.